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9 Counterclaimants AMP Plus, Inc.
10 d/b/a ELCO Lighting, Inc. and Elco Lighting, Inc.

11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 DMF, Inc., a California corporation,
14 Plaintiff,

15 vs.

16 AMP Plus, Inc. d/b/a ELCO Lighting, a
17 California corporation; and,
18 ELCO Lighting Inc., a California
19 corporation, ,
20 Defendants.

21 AMP Plus, Inc. d/b/a ELCO Lighting, a
22 California corporation and ELCO
23 Lighting, a California corporation,
24 Counter-Claimants,

25 vs.

26 DMF, Inc., a California corporation,
27 Counter-defendant.
28

Case No. 2:18-CV-07090 CAS (GJSx)

**DEFENDANTS' SECOND
AMENDED ANSWER AND
COUNTERCLAIM**

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SANTA MONICA, CA 90401-2386

Defendants AMP Plus, Inc. d/b/a ELCO Lighting (“ELCO”) and Elco Lighting, Inc. (“ELI”) (collectively, “Defendants”) hereby amends its answer to Plaintiff DMF, Inc.’s (“DMF”) Complaint without prejudice to asserting any additional defenses in the future.

I. PARTIES

1. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 1, and on this basis, deny these allegations.

2. Defendants admit the allegations of paragraph 2.

3. ELI is not conducting any business and, on this basis, Defendants deny the allegations of paragraph 3.

4. Defendants admit the allegations of paragraph 4.

II. JURISDICTION AND VENUE

5. Defendants admit the allegations of paragraph 5.

6. Defendants admit that this Court has personal jurisdiction over them. Defendants deny all other allegations of paragraph 6.

7. Defendants admit that venue is proper in this District as alleged. Defendants deny all other allegations of paragraph 7.

III. BACKGROUND

8. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 8, and on this basis, deny these allegations.

9. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 9, and on this basis, deny these allegations.

10. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 10, and on this basis, deny these allegations.

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A. DMF's LED Lighting System

11. Defendants agree that heat generated by an LED lighting system may affect the system's long-term reliability. Defendants lack knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 11, and on this basis, deny these remaining allegations.

12. Defendants agree with the statements in paragraph 12.

13. Defendants agree that conventional recessed lighting may or may not include a can.

14. Defendants disagree with the statement in paragraph 14 that firebox installation requires "significant" time, labor, and costs.

15. Defendants agree that lighting fixture options and placement may or may not vary.

1. Michael D. Danesh Alleged Contribution

16. Defendants deny the allegations of paragraph 16.

17. Defendants deny the allegations of paragraph 17.

18. Defendants agree that recessed lighting systems may have a decorative trim to cover the ceiling hole in which the light fixture is installed, but lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 18, and on this basis, deny these remaining allegations.

19. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 19, and on this basis, deny these allegations.

2. U.S. Patent No. 9,964,266 -- the '266 patent

20. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 20, and on this basis, deny these allegations.

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1 21. Defendants lack knowledge or information sufficient to form a belief
2 about the truth of the allegations in paragraph 21, and on this basis, deny these
3 allegations.

4 22. Defendants admit the allegations of paragraph 22.

5 23. Defendants admit the allegations of paragraph 23.

6 24. Defendants lack knowledge or information sufficient to form a belief
7 about the truth of the allegations in paragraph 24, and on this basis, deny these
8 allegations.

9 25. Defendants lack knowledge or information sufficient to form a belief
10 about the truth of the allegations in paragraph 25, and on this basis, deny these
11 allegations.

12 26. Defendants lack knowledge or information sufficient to form a belief
13 about the truth of the allegations in paragraph 26, and on this basis, deny these
14 allegations.

15 27. Defendants lack knowledge or information sufficient to form a belief
16 about the truth of the allegations in paragraph 27, and on this basis, deny these
17 allegations.

18 **B. DMF's Products**

19 28. Defendants lack knowledge or information sufficient to form a belief
20 about the truth of the allegations in paragraph 28, and on this basis, deny these
21 allegations.

22 29. Defendants lack knowledge or information sufficient to form a belief
23 about the truth of the allegations in paragraph 29, and on this basis, deny these
24 allegations.

25 30. Defendants lack knowledge or information sufficient to form a belief
26 about the truth of the allegations in paragraph 30, and on this basis, deny these
27 allegations.

1 31. Defendants lack knowledge or information sufficient to form a belief
2 about the truth of the allegations in paragraph 31, and on this basis, deny these
3 allegations.

4 32. Defendants lack knowledge or information sufficient to form a belief
5 about the truth of the allegations in paragraph 32, and on this basis, deny these
6 allegations.

7 33. Defendants lack knowledge or information sufficient to form a belief
8 about the truth of the allegations in paragraph 33, and on this basis, deny these
9 allegations.

10 **C. Lighting Industry**

11 34. Defendants lack knowledge or information sufficient to form a belief
12 about the truth of the allegations in paragraph 34, and on this basis, deny these
13 allegations.

14 35. Defendants lack knowledge or information sufficient to form a belief
15 about the truth of the allegations in paragraph 35, and on this basis, deny these
16 allegations.

17 36. Defendants lack knowledge or information sufficient to form a belief
18 about the truth of the allegations in paragraph 36, and on this basis, deny these
19 allegations.

20 37. Defendants lack knowledge or information sufficient to form a belief
21 about the truth of the allegations in paragraph 37, and on this basis, deny these
22 allegations.

23 38. Defendants lack knowledge or information sufficient to form a belief
24 about the truth of the allegations in paragraph 38, and on this basis, deny these
25 allegations.

26 39. Defendants lack knowledge or information sufficient to form a belief
27 about the truth of the allegations in paragraph 39, and on this basis, deny these
28 allegations.

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D. ELCO Does Not Knock-Off DMF Products

40. Defendants deny the allegations of paragraph 40.

41. Defendants deny the allegations of paragraph 41.

42. Defendants deny the allegations of paragraph 42.

43. Defendants deny the allegations of paragraph 43.

44. Defendants deny the allegations of paragraph 44.

45. Defendants deny the allegations of paragraph 45.

46. Defendants deny the allegations of paragraph 46.

47. Defendants deny the allegations of paragraph 47.

48. Defendants agree it directly competes against DMF, along with numerous other recessed lighting manufacturers; Defendants deny the remaining allegations of paragraph 48.

49. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 49, and on this basis, deny these allegations.

50. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 50, and on this basis, deny these allegations.

51. The allegations in paragraph 51 are vague and indeterminate. As a result, Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 51, and on this basis, deny these allegations.

52. Defendants admit that it, like any member of the public, had constructive access to DMF's patent application once the Patent Office had published it and, on this basis, agrees with the statements in paragraph 52.

53. Defendants admit that it, like any member of the public, had constructive access to DMF's published patent, but denies the remaining statements in paragraph 53.

54. Defendants deny the allegations of paragraph 54.

1 55. Defendants deny the allegations of paragraph 55.

2 56. Defendants deny the allegations of paragraph 56.

3 57. Defendants agree that, on August 10, 2018, Mr. Brandon Cohen
4 acknowledged that he had received the Cease & Desist Letter.

5 **3. DMF's DRD2 LED Module**

6 58. Defendants deny the allegations of paragraph 58.

7 59. Defendants admit the allegations of paragraph 59.

8 60. Defendants lack knowledge or information sufficient to form a belief
9 about the truth of the allegations in paragraph 60, and on this basis, deny these
10 allegations.

11 61. Defendants lack knowledge or information sufficient to form a belief
12 about the truth of the allegations in paragraph 61, and on this basis, deny these
13 allegations.

14 62. Defendants lack knowledge or information sufficient to form a belief
15 about the truth of the allegations in paragraph 62, and on this basis, deny these
16 allegations.

17 63. Defendants lack knowledge or information sufficient to form a belief
18 about the truth of the allegations in paragraph 63, and on this basis, deny these
19 allegations.

20 64. Defendants lack knowledge or information sufficient to form a belief
21 about the truth of the allegations in paragraph 64, and on this basis, deny these
22 allegations.

23 65. Defendants lack knowledge or information sufficient to form a belief
24 about the truth of the allegations in paragraph 65, and on this basis, deny these
25 allegations.

26 66. Defendants lack knowledge or information sufficient to form a belief
27 about the truth of the allegations in paragraph 66, and on this basis, deny these
28 allegations.

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1 67. Defendants lack knowledge or information sufficient to form a belief
2 about the truth of the allegations in paragraph 67, and on this basis, deny these
3 allegations.

4 68. Defendants lack knowledge or information sufficient to form a belief
5 about the truth of the allegations in paragraph 68, and on this basis, deny these
6 allegations.

7 69. Defendants lack knowledge or information sufficient to form a belief
8 about the truth of the allegations in paragraph 69, and on this basis, deny these
9 allegations.

10 70. Defendants lack knowledge or information sufficient to form a belief
11 about the truth of the allegations in paragraph 70, and on this basis, deny these
12 allegations.

13 71. Defendants lack knowledge or information sufficient to form a belief
14 about the truth of the allegations in paragraph 71, and on this basis, deny these
15 allegations.

16 72. Defendants lack knowledge or information sufficient to form a belief
17 about the truth of the allegations in paragraph 72, and on this basis, deny these
18 allegations.

19 73. Defendants lack knowledge or information sufficient to form a belief
20 about the truth of the allegations in paragraph 73, and on this basis, deny these
21 allegations.

22 74. Defendants deny the allegations of paragraph 74.

23 75. Defendants admit the allegations of paragraph 75.

24 76. Defendants lack knowledge or information sufficient to form a belief
25 about the truth of the allegations in paragraph 76, and on this basis, deny these
26 allegations.

27 77. Defendants agree that its marketing materials promote the benefits of
28 the ELCO ELL LED Module as including its versatile design and convenient twist-

lock attachment of an assortment of trim options, but denies the remaining allegations of paragraph 77.

4. DMF's Modular Trims

78. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 78, and on this basis, deny these allegations.

79. Defendants deny the allegations of paragraph 79.

80. Defendants agree that it sells ELCO Trims to be used with ELCO ELL LED Modules and instructs customers how to install the trims.

81. Defendants agree with the statements of paragraph 81.

5. DMF's Hanger Junction Box

82. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 82, and on this basis, deny these allegations.

83. Exhibit 19 and Exhibit 20 appear to be as described in paragraph 83, but Defendants lack knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 83, and on this basis, deny these remaining allegations.

84. Defendants admit the allegations of paragraph 84.

85. Defendants admit the allegations of paragraph 85.

86. Defendants admit the allegations of paragraph 86.

87. Defendants deny the allegations of paragraph 87.

88. Defendants admit the allegations of paragraph 88.

6. DMF's Products

89. Defendants deny the allegations of paragraph 89.

90. Defendants deny the allegations of paragraph 90.

91. Defendants deny the allegations of paragraph 91.

7. No Irreparable Harm

92. Defendants deny the allegations of paragraph 92.

93. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 93, and on this basis, deny these allegations.

94. Defendants deny the allegations of paragraph 94.

95. Defendants deny the allegations of paragraph 95.

96. Defendants deny the allegations of paragraph 96.

97. Defendants deny the allegations of paragraph 97.

98. Defendants deny the allegations of paragraph 98.

99. Defendants deny the allegations of paragraph 99.

8. ELCO Does Not Use a Confusingly Similar Trademark

100. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 100, and on this basis, deny these allegations.

101. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 101, and on this basis, deny these allegations.

102. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 102, and on this basis, deny these allegations.

103. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 103, and on this basis, deny these allegations.

104. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 104, and on this basis, deny these allegations.

105. ELCO markets a line of trim products under the trademark UNO™; Defendants deny the remaining allegations of paragraph 105.

106. ELCO owns and operates the website, elcolighting.com, and markets a line of trim products under the trademark UNO™; Defendants deny the remaining allegations of paragraph 106.

107. Defendants deny the allegations of paragraph 107.

108. Defendants deny the allegations of paragraph 108.

109. Defendants deny the allegations of paragraph 109.

110. Defendants deny the allegations of paragraph 110.

111. Defendants deny the allegations of paragraph 111.

9. ELCO Products

112. Defendants deny that ELCO's products infringe the DMF patents.

113. Defendants deny the allegations of paragraph 113.

114. Defendants deny the allegations of paragraph 114.

115. Defendants deny the allegations of paragraph 115.

116. Defendants deny the allegations of paragraph 116.

IV. COUNT I – INFRINGEMENT OF THE '266 PATENT

117. Defendants incorporate by reference paragraphs 1 through 116 above.

118. Defendants deny the allegations of paragraph 118.

A. No 35 U.S.C. § 271(a) Direct Infringement

119. Defendants deny the allegations of paragraph 119.

120. Defendants deny the allegations of paragraph 120.

121. Defendants deny the allegations of paragraph 121.

B. No 35 U.S.C. § 271(b) Induced Infringement

122. Defendants deny the allegations of paragraph 122.

123. Defendants deny the allegations of paragraph 123.

124. Defendants deny the allegations of paragraph 124.

125. Defendants deny the allegations of paragraph 125.

126. Defendants deny the allegations of paragraph 126.

C. No 35 U.S.C. § 271(c) Contributory Infringement

127. Defendants deny the allegations of paragraph 127.

128. Defendants deny the allegations of paragraph 128.

129. Defendants deny the allegations of paragraph 129.

130. Defendants deny the allegations of paragraph 130.

131. Defendants deny the allegations of paragraph 131.

132. Defendants deny the allegations of paragraph 132.

D. No 35 U.S.C. § 284 Damages

133. Defendants deny the allegations of paragraph 133.

E. No 35 U.S.C. § 284 Willful Infringement

134. Defendants deny the allegations of paragraph 134.

135. Defendants deny the allegations of paragraph 135.

136. Defendants deny the allegations of paragraph 136.

137. Defendants deny the allegations of paragraph 137.

138. Defendants deny the allegations of paragraph 138.

139. Defendants deny the allegations of paragraph 139.

F. No Injunctive Relief

140. Defendants deny the allegations of paragraph 140.

141. Defendants deny the allegations of paragraph 141.

142. Defendants deny the allegations of paragraph 142.

143. Defendants deny the allegations of paragraph 143.

144. Defendants deny the allegations of paragraph 144.

V. COUNT II – ALLEGING TRADEMARK INFRINGEMENT AND UNFAIR COMPETITION (UNDER 15 U.S.C. §§ 1114 AND 1125(A))

145. Defendants incorporate by reference paragraphs 1 through 144 above.

146. Defendants deny the allegations of paragraph 146.

147. Defendants deny the allegations of paragraph 147.

148. Defendants deny the allegations of paragraph 148.

149. Defendants deny the allegations of paragraph 149.

150. Defendants deny the allegations of paragraph 150.

151. Defendants deny the allegations of paragraph 151.

152. Defendants deny the allegations of paragraph 152.

153. Defendants deny the allegations of paragraph 153.

154. Defendants deny the allegations of paragraph 154.

155. Defendants deny the allegations of paragraph 155.

156. Defendants deny the allegations of paragraph 156.

157. Defendants deny the allegations of paragraph 157.

**VI. COUNT II [SIC] – ALLEGING TRADEMARK INFRINGEMENT
(UNDER CALIFORNIA LAW)**

158. Defendants incorporate by reference paragraphs 1 through 157 above.

159. Defendants deny the allegations of paragraph 159.

160. Defendants deny the allegations of paragraph 160.

161. Defendants deny the allegations of paragraph 161.

162. Defendants deny the allegations of paragraph 162.

163. Defendants deny the allegations of paragraph 163.

164. Defendants deny the allegations of paragraph 164.

165. Defendants deny the allegations of paragraph 165.

166. Defendants deny the allegations of paragraph 166.

167. Defendants deny the allegations of paragraph 167.

168. Defendants deny the allegations of paragraph 168.

169. Defendants deny the allegations of paragraph 169.

**VII. COUNT V [SIC] – ALLEGING VIOLATIONS OF CAL. BUS. & PROF.
CODE §17200 AND COMMON LAW UNFAIR COMPETITION**

170. Defendants incorporate by reference paragraphs 1 through 169 above.

1 171. Defendants lack knowledge or information sufficient to form a belief
2 about the truth of the allegations in paragraph 171, and on this basis, deny these
3 allegations.

4 172. Defendants lack knowledge or information sufficient to form a belief
5 about the truth of the allegations in paragraph 172, and on this basis, deny these
6 allegations.

7 173. Defendants deny the allegations of paragraph 173.

8 174. Defendants deny the allegations of paragraph 174.

9 175. Defendants lack knowledge or information sufficient to form a belief
10 about the truth of the allegations in paragraph 175, and on this basis, deny these
11 allegations.

12 176. Defendants deny the allegations of paragraph 176.

13 177. Defendants deny the allegations of paragraph 177.

14 178. Defendants deny the allegations of paragraph 178.

15 179. Defendants deny the allegations of paragraph 179.

16 180. Defendants deny the allegations of paragraph 180.

17 181. Defendants deny the allegations of paragraph 181.

18 **VIII. DEFENDANTS' ADDITIONAL DEFENSES**

19 1. Of the incredibly large number of ELCO products and accessories
20 listed in DMF's complaint paragraphs 113-116, a large majority of them were
21 inappropriately named -- apparently for the extrajudicial benefit DMF is attempting
22 to extract from listing them -- do not infringe and have not infringed the '266 patent,
23 either directly (35 U.S.C. § 271(a)), contributorily (35 U.S.C. § 271(c)), or by active
24 inducement (35 U.S.C. § 271(b)). Some, for example, are mere accessories, capable
25 of attaching to numerous ELCO products. They cannot be legitimately accused of
26 having all of the elements of any claim of the '266 patent.

27 2. The asserted '266 patent is invalid on the grounds of anticipation by
28 known prior art references under 35 U.S.C. Section 102, including as a result of at

1 least the prior art admitted in the '266 patent (the "admitted prior art"), U.S. Patent
2 No. 9,222,661 ("Kim"); U.S. Patent No. 9,217,560 ("Harbers"); U.S. Patent
3 Application No. 11/949,185; U.S. Patent Application No. 13/915,868; Imtra
4 Corporation's PowerLED; ELCO's E247 LED module; Lithonia Lighting LED
5 Versi Lite; and Cree's LMH2 LED module, as discussed below and incorporated
6 here by this reference.

7 3. The asserted '266 patent is invalid on the grounds of obviousness in
8 view of the combined teaching and suggestions of the prior art under 35 U.S.C.
9 Section 103, including as a result of the admitted prior art, U.S. Patent Nos.
10 9,222,661 ("Kim"); 9,217,560 ("Harbers"); 7,566,154 ("Gloisten"); 7,488,097
11 ("Reisenauer"); 9,371,966 ("Rowlette"); 9,285,103 ("Van de Ven III"); 8,602,601
12 ("Khazi"); 9,068,719 ("Van de Ven II"); 2,038,784 ("Ghadiali"); 3,422,261
13 ("McGinty"); 6,600,175 ("Baretz I"); 6,515,313 ("Ibbetson"); 6,657,236
14 ("Thibeault"); 6,958,497 ("Emerson I"); 6,906,352 ("Edmond"); 7,692,182
15 ("Bergmann"); 7,335,920 ("Denbaars"); 7,446,345 ("Emerson III"); 7,211,833
16 ("Slater"); 7,704,763 ("Fujii"); 7,213,940 ("Van de Ven I"); 7,769,192 ("Takagi");
17 7,312,474 ("Emerson II"); 8,659,034 ("Baretz II"); 5,975,323 ("Turan"); 9,065,264
18 ("Cooper"); 9,366,418 ("Gifford"); 7,347,580 ("Blackman"); U.S. Patent
19 Application Nos. 11/949,185; 13/915,868; and 10/831,941; China Patent
20 Application No. CN202733693U ("Foshan"); United Kingdom Patent No. GB
21 2,427,020 ("Johnson"); Japan Patent Application No. JP2007265961A ("Yoshiro");
22 Canada Patent Publication No. CA2815067 ("Kathawate"); China Patent
23 Publication No. CN201259125 ("Wang"); Imtra Corporation's PowerLED; ELCO's
24 E247 LED module; Lithonia Lighting LED Versi Lite; and Cree's LMH2 LED
25 module, as discussed below and incorporated here by this reference.

26 4. Defendants do not infringe and have not infringed any of DMF's
27 trademark rights. The asserted trademarks are inherently weak, ELCO's accused
28 mark is dramatically different in sight and sound. There are no known instances of

1 any confusion, and the other likelihood of confusion factors likewise favor a finding
2 of no likelihood of confusion.

3 5. Defendants have not committed any acts of unfair competition.

4 6. Defendants have, at all times, acted in good faith within the privileges
5 of free competition.

6 7. DMF suffered no loss or damages arising from the alleged claims
7 against Defendants.

8 8. DMF is not entitled to recover any damages due to a lack of causation.

9 9. DMF is barred from recovering damages because any damages possibly
10 available in connection with this action are speculative and uncertain.

11 10. DMF is not entitled to recover damages due to its failure to mitigate.

12 11. Pursuant to 35 U.S.C. §§ 112 and 282(b)(3)(A), the '266 Patent is
13 invalid because the claims are not supported by the specification, in particular, the
14 light source module location claim limitation language "wherein the light source
15 module and the driver are positioned inside the first cavity while being coupled to
16 the heat conducting closed rear face of the unified casting such that the light source
17 module is closer to the closed rear face of the unified casting than the open front
18 face of the unified casting" of independent claims 1, and similar language of the
19 other independent claims, finds no support in the specification.

20 12. DMF is guilty of unclean hands, and by reason thereof, under the
21 doctrine of unclean hands, DMF's claims are barred, in whole or in part and/or its
22 recovery is eliminated or reduced. DMF has unclean hands because, on information
23 and belief, DMF, among other things, that DMF falsely represented that its junction
24 boxes to be used with the DRD2 module were fire rated up to 2 hours under UL Std.
25 514A, and the junctions boxes constituted recessed lights, which require
26 certification under UL Std. 1598. Defendants are informed and believe, and on that
27 basis allege, that DMF's junction boxes were never certified for fire rating under
28 514A, nor were they certified under 1598. Defendants are informed and believe,

1 and on that basis allege, that is why DMF “retired” junction box model no.
2 DRDHNJ in December 2018, right after Defendants filed their opposition to DMF’s
3 preliminary injunction motion. Defendants are informed and believe, and on that
4 basis allege, that DMF falsely promoted its DRD2 by falsely promoting its junction
5 boxes, and that DMF sold large quantities of those junction boxes, and in turn,
6 DRD2 modules.

7 **IX. PRAYER FOR RELIEF**

8 WHEREFORE, Defendants pray that this Court enter judgment denying all
9 relief sought by DMF.

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DEFENDANTS' COUNTERCLAIMS

Defendants and Counterclaimants AMP Plus, Inc. d/b/a ELCO Lighting (“ELCO”) and Elco Lighting, Inc. (“ELI”) (collectively “Counterclaimants”) hereby amend their counterclaims and assert the following counterclaims against Plaintiff and Counterclaim-Defendant DMF, Inc. (“DMF”), removing other originally pled counterclaims without prejudice to asserting any counterclaims in the future.

A. JURISDICTION

1. These counterclaims seek, among other claims, declaratory judgments of non-infringement and invalidity of the ‘266 patent and non-infringement of DMF’s alleged trademark rights. This Court has jurisdiction over such declaratory judgment actions pursuant to the Federal Declaratory Judgments statutes, 28 U.S.C. §§ 2201 and 2202. This Court has jurisdiction over the subject matter of the same pursuant to 28 U.S.C. §§ 1331 and 1338(a) because questions of patent and trademark rights are federal questions arising out of the Acts of Congress, namely, Titles 15 and 35 of the United States Code. This Court has jurisdiction over the remaining subject matter pursuant to 28 U.S.C. §§ 1338(b) and 1367 as supplemental.

2. DMF is subject to personal jurisdiction in this judicial district and venue is proper as to DMF by virtue of its submitting to the jurisdiction and venue of this Court by virtue of filing the present direct action in this Court. In addition, personal jurisdiction and venue are proper in this judicial district because DMF admits that it has a principal place of business in this judicial district.

B. FACTUAL BACKGROUND

3. ELCO has been in the lighting business for over twenty-five (25) years and has become a trusted name in lighting fixtures throughout the country. ELCO was founded on the philosophy that high quality lighting products should be sold at a fair market price. Both customers and competitors alike see ELCO as a leader in

1 luminaire manufacturing. ELCO maintains many electrical engineers on site, and
2 ELCO has become a pioneer in the world of illumination.

3 4. ELCO's commitment to this philosophy and dedication to exceptional
4 customer service serve as the very soul of the company. ELCO takes pride in its
5 perpetual commitment to such standards that enable it to continually prosper in a
6 highly competitive and unpredictable industry.

7 5. ELCO's several LED product lines include recessed, track,
8 undercabinet, outdoor and emergency lighting. ELCO stands behind every product
9 it makes -- no exceptions.

10 **C. COUNT I -- DECLARATORY JUDGMENT OF**
11 **INVALIDITY OF THE '266 PATENT**

12 6. Counterclaimants repeat and incorporate paragraphs 1 through 5.

13 7. DMF alleges in its Complaint that Counterclaimants have infringed
14 DMF's U.S. Patent No. 9,964,266 ("the '266 patent").

15 8. Counterclaimants deny that they have in any way infringed the '266
16 patent or that the '266 patent was correctly and appropriately granted.

17 9. As such, an actual and justiciable controversy therefore exists between
18 DMF and Counterclaimants with respect to the validity of the '266 patent.

19 10. The '266 patent and some or all of its claims are invalid on the grounds
20 that the subject matter sought to be patented therein fails to comply with the
21 conditions and requirements for patentability set forth in Title 35, United States
22 Code, including, but not limited to, the provisions of 35 U.S.C. Sections 102 and/or
23 103.

24 11. Each and every limitation of the asserted claims of the '266 patent is
25 taught in prior art references, including, but not limited to, the prior art admitted in
26 the '266 patent (the "admitted prior art"), including but not limited to U.S. Patent
27 No. 6,491,413 ("Benesohn"), as well as the following additional prior art: U.S.
28 Patent No. 9,222,661 ("Kim"); U.S. Patent No. 9,217,560 ("Harbers"); U.S. Patent

1 Application No. 11/949,185; U.S. Patent Application No. 13/915,868; Imtra
2 Corporation's PowerLED; ELCO's E247 LED module; Lithonia Lighting LED
3 Versi Lite; and Cree's LMH2 LED module.

4 12. The claims of the '266 patent, including claims asserted as being
5 infringed, are rendered obvious by the combined teaching and suggestion of the
6 prior art, including the admitted prior art, U.S. Patent Nos. 9,222,661 ("Kim");
7 9,217,560 ("Harbers"); 7,566,154 ("Gloisten"); 7,488,097 ("Reisenauer");
8 9,371,966 ("Rowlette"); 9,285,103 ("Van de Ven III"); 8,602,601 ("Khazi");
9 9,068,719 ("Van de Ven II"); 2,038,784 ("Ghadiali"); 3,422,261 ("McGinty");
10 6,600,175 ("Baretz I"); 6,515,313 ("Ibbetson"); 6,657,236 ("Thibeault"); 6,958,497
11 ("Emerson I"); 6,906,352 ("Edmond"); 7,692,182 ("Bergmann"); 7,335,920
12 ("Denbaars"); 7,446,345 ("Emerson III"); 7,211,833 ("Slater"); 7,704,763 ("Fujii");
13 7,213,940 ("Van de Ven I"); 7,769,192 ("Takagi"); 7,312,474 ("Emerson II");
14 8,659,034 ("Baretz II"); 5,975,323 ("Turan"); 9,065,264 ("Cooper"); 9,366,418
15 ("Gifford"); 7,347,580 ("Blackman"); U.S. Patent Application Nos. 11/949,185;
16 13/915,868; and 10/831,941; China Patent Application No. CN202733693U
17 ("Foshan"); United Kingdom Patent No. GB 2,427,020 ("Johnson"); Japan Patent
18 Application No. JP2007265961A ("Yoshiro"); Canada Patent Publication No.
19 CA2815067 ("Kathawate"); China Patent Publication No. CN201259125 ("Wang");
20 Imtra Corporation's PowerLED; ELCO's E247 LED module; Lithonia Lighting
21 LED Versi Lite; and Cree's LMH2 LED module.

22 13. The patent claims of the '266 patent recite an LED light source that
23 emits light during operation of the LED module and that LED light source receives
24 regulated power from a donut shaped driver. These claim limitations, however,
25 recite nothing that is not already in this prior art.

26 **1. Anticipation By The Imtra PowerLED Module**

27 14. For example, but not exclusively so, claims 1-2, 4-17, 19-22, 25-28 of
28 the '266 patent are anticipated under 35 U.S.C. § 102(a) by Imtra. Counterclaimants

1 attache as Exhibit 1 a true and correct copy of pages from a 2012 product catalog
2 from Imtra Corporation, as saved and maintained by archive.org. The catalog
3 discloses the configuration of an Imtra PowerLED as of at least 2012, which
4 includes an LED light source that emits light during operation of the LED module
5 receiving power from a donut shaped driver ("integrated driver electronics featuring
6 constant current control of LED's"). Counterclaimants also attach as Exhibits 2 and
7 3, respectively, true and correct copies of an Imtra product drawing (with
8 measurements of the product) and the Imtra PowerLED Downlight Installation and
9 Operation Manual, both of which are available on Imtra's website
10 (www.imtra.com), and Counterclaimants allege, on information and belief, were
11 available to the public and on Imtra's website as of at least 2012.

12 15. Counterclaimants attach as Exhibit 4 a claims chart showing the
13 invalidity of claims 1-2, 4-17, 19-22, 25-28 of the '266 patent in view of this prior
14 art, and incorporate by reference, as if alleged and stated in this paragraph, the
15 contents of that claims chart.

16 16. The '266 patent claims recite "a unified casting with a heat conducting
17 closed rear face, a heat conducting sidewall and an open front face wherein the heat
18 conducting sidewall is joined to the heat conducting closed rear face at one end and
19 defines the open front face of the unified casting at another end[.]" These claim
20 limitations, likewise, recite nothing that is not already in the prior art.

21 17. The catalog discloses a module with heat conducting aluminum casting
22 ("Anodized, die-cast aluminum heat-sink housing") with a closed rear face, an open
23 front face, and a cylindrical sidewall there between. Additionally, the casting has
24 heat-sink fins on the sidewall and rear wall.

25 18. Next, the '266 patent claims recite "a reflector positioned inside the first
26 cavity of the unified casting and coupled to and surrounding the light source module
27 such that the reflector directs light produced by the light source module into an area
28 surrounding the compact recessed lighting system while enclosing the driver from

1 exposure to the area surrounding the compact recessed lighting system[.]” Again,
2 nothing new.

3 19. The catalog discloses a reflector that, during operation of the LED
4 Module, reflects light emitted from the LED light source out of the open end of the
5 aluminum casting (“highly reflective, plated aluminum reflector for superior optical
6 efficiency”) through a lens at the open end of the aluminum casting (“frosted glass
7 lens for glare free illumination”).

8 20. Next, the claims recite that “the light source module and the driver are
9 positioned inside the first cavity while being coupled to the heat conducting closed
10 rear face of the unified casting such that the light source module is closer to the
11 closed rear face of the unified casting than the open front face of the unified
12 casting[.]” These limitations can also be found in the prior art.

13 21. The catalog discloses an LED light source, driver, and reflector that are
14 positioned within the aluminum casting. The LED light source is positioned closer
15 to the rear end of the aluminum casting than the open front end of the casting. The
16 lens helps shield the LED light source from outside contamination, such as when the
17 LED Module is being handled for installation or afterwards, while allowing light
18 from the LED light source to pass through the lens during operation of the LED
19 Module (“frosted glass lens for glare free illumination”).

20 22. Next, the ‘266 patent claims recite that there is a “driver including an
21 electronic device to at least one of supply and regulate electrical energy to the light
22 source module[.]” This was also common before the ‘266 patent was filed.

23 23. Additionally, certain Imtra LED products disclose dimensions such as
24 these. For example, the Portland Bi-Color LED discloses an aluminum casting
25 module that is sized so that it can fit within a junction box that is 3-1/2 inches wide
26 and 1-1/2 inches deep (“Trim Ring Diameter 3.43 inches and Recessed Depth of
27 0.92 inches”). The width of the closed rear end of the aluminum casting is less than
28 3-1/2 inches. The height from the outside of the closed rear end to the outside of the

1 open end of the casting is less than 2 inches. The outside width of the aluminum
2 casting's sidewall between the closed rear end and rim at the open front end of the
3 casting is less than 3-1/2 inches wide

4 **2. Anticipation By U.S. Patent No. 9,222,661 ("Kim")**

5 24. Kim discloses a unified casting (housing 100), a light source (400),
6 which is closer to rear wall than the front wall (see, Figures 5-6), a driver (500), and
7 a reflector (300), and the reflector encloses the driver (see, Figure 5).
8 Counterclaimants attach as Exhibit 5 a true and correct copy of the Kim patent.

9 25. Counterclaimants attach as Exhibit 6 a claims chart showing how
10 claims 1-2, 4-15, 17, 19-22, 25-28 of the '266 patent are anticipated under 35 U.S.C.
11 § 102(a) by Kim, and incorporate by reference, as if alleged and stated in this
12 paragraph, the contents of that claims chart.

13 **3. Anticipation By The CREE LMH2 LED Module**

14 26. Furthermore, at least as early as 2012, Mouser Electronics was selling a
15 CREE LMH2 LED Module disclosing electrical wires passing through the closed
16 rear face of the aluminum casting for supplying electrical energy to the driver
17 (labeled as "strain relief" in reference to the LMH2 Assembly). Counterclaimants
18 attach as Exhibit 7 a true and correct copy of pages from the Mouser Electronics
19 website, as saved and maintained by archive.org.

20 27. Counterclaimants attach as Exhibit 8 a claims chart showing how
21 claims 1-2, 4-6, 8-14, 17, 19-22, 25-28 of the '266 patent are anticipated under 35
22 U.S.C. § 102(a) by LMH2, and incorporate by reference, as if alleged and stated in
23 this paragraph, the contents of that claims chart.

24 28. Wires that have a connector at one end that, during installation of the
25 LED Module in a building, can be plugged into a corresponding connector of other
26 wires that receive electrical energy, such as 120-volt electrical energy supplied in
27 the building in which the LED module is installed, can be found generally on the
28 archived Mouser Electronics webpages.

1 29. Next, the claims of the ‘266 patent recite that the “unified casting
2 includes a plurality of elements positioned proximate to the open front face so as to
3 align with corresponding tabs of a standard junction box and thereby facilitate
4 holding the unified casting up against the standard junction box when the unified
5 casting is installed in the standard junction box[.]” Once again, this limitation is in
6 this prior art.

7 **4. Anticipation By U.S. Patent No. 9,217,560 (“Harbers”)**

8 30. Claims 1-2, 4-10, 12-13, 15, 17, 19-22, 25-28 are anticipated under 35
9 U.S.C. § 102(a) by Harbers, a true and correct copy of which is attached hereto as
10 Exhibit 9. Harbers discloses a unified casting (130), a light source (LED 102),
11 which is closer to rear wall than the front wall (*see*, Figure 3), a driver (module
12 120), and a reflector (140), and the reflector encloses the driver (*see*, Figure 3).

13 31. Counterclaimants attach as Exhibit 10 a claims chart showing how
14 claims 1-2, 4-10, 12-13, 15, 17, 19-22, 25-28 of the ‘266 patent are anticipated
15 under 35 U.S.C. § 102(a) by Harbers, and incorporate by reference, as if alleged and
16 stated in this paragraph, the contents of that claims chart.

17 **5. Anticipation By The ELCO E247 LED Module**

18 32. Well before the priority date of the ‘266 patent, ELCO itself was selling
19 the E247, which discloses the elements of representative claim 1 of the ‘266 patent.

20 33. Counterclaimants attach as Exhibit 11 a claims chart showing the
21 invalidity of representative claim 1 of the ‘266 patent in view of this prior art, and
22 incorporat by reference, as if alleged and stated in this paragraph, the contents of
23 that claims chart.

24 **6. Anticipation By The Lithonia LED Versi Lite**

25 34. In yet another product from 2012, the Lithonia LED Versi Lite (See,
26 U.S. Design Patent No. D691,763 filed on December 13, 2012) discloses an LED
27 module with an adaptor plate for aligning with tabs of a junction box to fasten the
28 casting to the junction box, as included in Exhibits 4, 6, 8 and 11.

1 **7. Anticipation By U.S. Patent Application No. 11/949,185**

2 35. U.S. Patent Application No. 11/949,185 discloses a unified casting
3 (light case 2), a light source (LED 41), which is closer to rear wall than the front
4 wall (*see*, Figures 3), a driver (light unit 4), and a reflector (reflector portion 53),
5 and the reflector encloses the driver (*see*, Figure 3).

6 **8. Anticipation By U.S. Patent Application No. 13/915,868**

7 36. U.S. Patent Application No. 13/915,868 discloses a unified casting
8 (*see*, Figure 1), a light source (light emitter 2), which is closer to rear wall than the
9 front wall (*see*, Figure 1), a driver (lighting circuit unit 4), and a reflector (74), and
10 the reflector encloses the driver (*see*, Figure 1).

11 37. Accordingly, there exists an actual justiciable controversy between
12 DMF and Counterclaimants concerning whether some or all of the claims of the
13 ‘266 patent are invalid.

14 38. Counterclaimants request a judgment declaring that the ‘266 patent is
15 invalid. Such a determination and declaration is necessary and appropriate at this
16 time so that the parties may ascertain their respective rights and duties regarding the
17 invalidity of the ‘266 patent.

18 **9. Obviousness In View of Various Prior Art References**

19 39. Claims 1-2, 4-17, 19-22, 25-28 are obvious under 35 U.S.C. § 103(a)
20 over the ‘266 patent by Harbers in view of Benesohn. Counterclaimants incorporate
21 herein by reference, as if set forth fully in this paragraph, the contents of the claims
22 chart attached hereto as Exhibit 12, which explains how the aforementioned claims
23 are invalid under Harbers in view of Benesohn.

24 40. Claims 1-2, 4-17, 19-22, 25-28 are obvious under 35 U.S.C. § 103(a)
25 over the ‘266 patent by Harbers in view of Benesohn and in view of Turan, Cooper,
26 Blackman, Gifford, Johnson and/or Foshan. Counterclaimants incorporate herein by
27 reference, as if set forth fully in this paragraph, the contents of the claims chart
28 attached hereto as Exhibit 13, which explains how the aforementioned claims are

1 invalid under Harbers in view of Benesohn and in view of Turan, Cooper,
2 Blackman, Gifford, Johnson and/or Foshan.

3 41. Claims 1-2, 4-17, 19-22, 25-28 are obvious under 35 U.S.C. § 103(a)
4 by Imtra in view of Turan, Cooper, Blackman, Gifford, Johnson and/or Foshan.
5 Counterclaimants incorporate herein by reference, as if set forth fully in this
6 paragraph, the contents of the claims chart attached hereto as Exhibit 14, which
7 explains how the aforementioned claims are invalid under Imtra in view of Turan,
8 Cooper, Blackman, Gifford, Johnson and/or Foshan.

9 42. Claims 1-2, 4-15, 17, 19-22, 25-28 are obvious under 35 U.S.C.
10 § 103(a) by Kim in view of Johnson, Turan, Cooper, Gifford, Foshan and/or
11 Blackman. Counterclaimants incorporate herein by reference, as if set forth fully in
12 this paragraph, the contents of the claims chart attached hereto as Exhibit 15, which
13 explains how the aforementioned claims are invalid under by Kim in view of
14 Johnson, Turan, Cooper, Gifford, Foshan and/or Blackman.

15 43. Claims 1-2, 4-10, 12-13, 15, 17, 19-22, 25-28 are obvious under 35
16 U.S.C. § 103(a) by Harbers in view of Johnson, Turan, Cooper, Gifford, Foshan
17 and/or Blackman. Counterclaimants incorporate herein by reference, as if set forth
18 fully in this paragraph, the contents of the claims chart attached hereto as Exhibit 16,
19 which explains how the aforementioned claims are invalid under Harbers in view of
20 Johnson, Turan, Cooper, Gifford, Foshan and/or Blackman.

21 44. Claims 1-2, 4-17, 19-22, 25-28 are obvious under 35 U.S.C. § 103(a)
22 by Yoshiro in view of Johnson, Turan, Cooper, Gifford, Foshan and/or Blackman.
23 Counterclaimants incorporate herein by reference, as if set forth fully in this
24 paragraph, the contents of the claims chart attached hereto as Exhibit 17, which
25 explains how the aforementioned claims are invalid under Yoshiro in view of
26 Johnson, Turan, Cooper, Gifford, Foshan and/or Blackman.

27 45. Claims 1-2, 4-17, 19-22, 25-28 are obvious under 35 U.S.C. § 103(a)
28 by Gloisten in view of Johnson, Turan, Cooper, Gifford, Foshan and/or Blackman.

Counterclaimants incorporate herein by reference, as if set forth fully in this paragraph, the contents of the claims chart attached hereto as Exhibit 18, which explains how the aforementioned claims are invalid under Gloisten in view of Johnson, Turan, Cooper, Gifford, Foshan and/or Blackman.

46. Claims 1-2, 4-15, 17, 19-22, 25-28 are obvious under 35 U.S.C. § 103(a) by Reisenauer in view of Johnson, Turan, Cooper, Gifford, Foshan and/or Blackman. Counterclaimants incorporate herein by reference, as if set forth fully in this paragraph, the contents of the claims chart attached hereto as Exhibit 19, which explains how the aforementioned claims are invalid under Reisenauer in view of Johnson, Turan, Cooper, Gifford, Foshan and/or Blackman.

47. Claims 1-2, 4-14, 17, 19-22, 25-28 are obvious under 35 U.S.C. § 103(a) by LMH2 in view of Johnson, Turan, Cooper, Gifford, Foshan and/or Blackman. Counterclaimants incorporate herein by reference, as if set forth fully in this paragraph, the contents of the claims chart attached hereto as Exhibit 20, which explains how the aforementioned claims are invalid under LMH2 in view of Johnson, Turan, Cooper, Gifford, Foshan and/or Blackman.

48. Counterclaimants reserve the right to amend this response, including to add other invalidity grounds and prior art references as the litigation continues.

**D. COUNT II -- DECLARATORY JUDGMENT OF NON-
INFRINGEMENT OF THE '266 PATENT**

49. Counterclaimants repeat and incorporate paragraphs 1 through 48.

50. As mentioned above, DMF alleges in its Complaint that Counterclaimants have infringed the '266 patent, and Counterclaimants deny that they have in any way infringed the '266 patent.

51. As such, an actual and justiciable controversy therefore exists between DMF and Counterclaimants with respect to DMF's allegations of infringement of the '266 patent.

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1 52. Counterclaimants do not infringe, nor has they ever infringed, directly
2 (35 U.S.C. § 271(a)), contributorily (35 U.S.C. § 271(c)), or by actively inducing
3 others to infringe (35 U.S.C. § 271(b)) any valid claim of the '266 patent, either
4 literally or under the doctrine of equivalents, willfully or otherwise because ELCO's
5 products do not meet each and every limitation of the claims of the '266 patent.

6 53. In particular, of the incredibly large number of ELCO products and
7 accessories listed in DMF's complaint paragraphs 113-116, a large majority of them
8 were inappropriately named -- apparently for the extrajudicial benefit DMF is
9 attempt to extract from listing them -- do not infringe and have not infringed the
10 '266 patent, either directly (35 U.S.C. § 271(a)), contributorily (35 U.S.C. § 271(c)),
11 or by active inducement (35 U.S.C. § 271(b)). Some, for example, are mere
12 accessories, capable of attaching to numerous ELCO products. They cannot be
13 legitimately accused of having all of the elements of any claim of the '266 patent.

14 54. Counterclaimants are informed and on this basis believe that the
15 products DMF claims are covered by the '266 patent and authorized by it for sale
16 have never been consistently and are current not marked with any patent notice.

17 55. Neither ELCO nor ELI was not aware of the '266 patent until it
18 eventually uncovered and reviewed the cease and desist letter from DMF's counsel
19 in early- to mid-August 2018, since DMF had used wrong contact information.

20 56. Accordingly, there exists an actual justiciable controversy between
21 DMF and Counterclaimants concerning whether any claims of the '266 patent are
22 infringed by ELCO's products.

23 57. Counterclaimants request a judgment declaring that they do not infringe
24 the '266 patent. Such a determination and declaration is necessary and appropriate
25 at this time so that the parties may ascertain their respective rights and duties
26 regarding the non-infringement of the '266 patent.

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28

1 **E. COUNT III -- DECLARATORY JUDGMENT THAT**
2 **COUNTERCLAIMANTS DO NOT INFRINGE ANY DMF**
3 **TRADEMARK RIGHT**

4 58. Counterclaimants repeat and incorporate paragraphs 1 through 57.

5 59. DMF, in its Complaint, contends that there is a likelihood of confusion
6 and false association among the relevant public as a result of the coexistence of
7 Counterclaimants' use of UNO as a trademark for ELCO's lighting trims and
8 DMF's use of ONEFRAME and ONELED.

9 60. Counterclaimants contend the opposite. Counterclaimants contend that
10 there is no likelihood of confusion and no false association resulting from ELCO's
11 use of UNO as its trademark for its trims.

12 61. The DMF trademarks, ONEFRAME and ONELED, are not at all
13 similar in sight or sound to ELCO's trademark, UNO. Also, the term ONE is in
14 thousands of trademarks. ONE is probably the most used word, both descriptively
15 and possibly, weakly, as a trademark in the history of marketing goods and services.

16 62. Furthermore, the goods are not proximate – the DMF trademarks are
17 purportedly for “junction boxes and wiring enclosures for use in connection with
18 recessed lighting” and “LED luminaires, lighting fixtures, recessed lighting fixtures,
19 recessed ceiling and wall lights; recessed lighting components, namely, light
20 housings, trims, fittings, and wiring.” For its ONELED trademark, DMF also added
21 “LED Lighting Modules.” ELCO, by contrast, is commercially using its mark,
22 UNO, for a line of trim accessories specifically for use with its ELL LED modules.
23 As a result, the marketing channels also are likely to not be particularly similar.

24 63. DMF has not claimed any instances of actual confusion between
25 ELCO's UNO mark and the DMF trademarks. The degree of care likely to be
26 exercised by the purchaser is sufficiently high to render confusion unlikely,
27 considering they are most often professionals and contractors. Additionally,
28 electrical installation is not taken lightly by any customer or potential customer, due

1 to the type of goods at issue here. ELCO's reasons for selecting its UNO trademark
2 for the trim accessories had nothing to do with DMF or any DMF trademark, and
3 ELCO is not aware that DMF is intending to expand product lines into ELCO's trim
4 accessories or the like.

5 64. Accordingly, there exists an Article III judiciable case and controversy
6 between DMF and Counterclaimants concerning whether there is any likelihood of
7 confusion or false association between ELCO's UNO trademark and DMF's use of
8 ONEFRAME and One LED on its lighting products.

9 65. Counterclaimants request a judgment declaring that they do not, and
10 have not, infringed the DMF trademarks. Such a determination and declaration is
11 necessary and appropriate at this time so that the parties may ascertain their
12 respective rights and duties regarding the non-infringement of the DMF trademarks.

13 66. Counterclaimants reserve their rights to raise other arguments and
14 defenses, this being only exemplary for purposes of this notice pleading.

15 **F. COUNTERCLAIMANTS' PRAYER FOR RELIEF**

16 WHEREFORE, Counterclaimants pray that this Court enter judgment that:

- 17 1. The '266 patent is invalid;
- 18 2. Even if held valid, the '266 patent is not infringed by ELCO's products
19 or by Counterclaimants;
- 20 3. The ONEFRAME and ONELED trademarks are not infringed by
21 Counterclaimants.
- 22 4. DMF is not entitled to any damages arising from any of its foregoing
23 claims; and
- 24 5. Counterclaimants are entitled to such other and further legal and
25 equitable relief as the Court may deem appropriate.

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28 ///

1 Dated: March 19, 2019

BRYAN CAVE LEIGHTON PAISNER LLP

2
3 By: /s/ Robert E. Boone III

Robert E. Boone III

4 Attorneys for Defendants

5 AMP Plus, Inc. d/b/a ELCO Lighting and

6 Elco Lighting, Inc.

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